

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

In the matter of:

CASE NO. 10-07347 MCF

MARIA DE LOURDES COSME HERNÁNDEZ

CHAPTER 13

Debtor

ANSWER TO AMENDED OBJECTION TO CLAIM 8 FILED BY CRIM

TO THE HONORABLE COURT:

COMES NOW creditor Municipal Revenue Collection Center, known in Spanish as *Centro de Recaudación de Ingresos Municipales* (“CRIM”) through undersigned counsel and respectfully states and prays:

1. By motion dated and filed March 8, 2011, docket number 42, Debtor objected claim number 8 filed by CRIM claiming payment of real property tax over the following real estate¹: Urb. Parque Interamericana Calle 1 Solar 47, Guayama, Puerto Rico, cadaster number 442-013-554-10-000.

2. Debtor objects claim number 8 based on her “consent[to] the lift of stay regard[ing] debt over property located in Guayama, Puerto Rico”. Also Debtor in her Amended Plan dated 3/03/2011 at docket number 41 specifically states that she “consent[s] to the lift of the automatic stay in favor of CRIM over property located in Guayama Puerto Rico”. In CRIM’s records, Debtor has no other real property in Guayama.

3. This creditor contends that the basis for Debtor’s objection is not

¹ The real property tax is secured since it is a statutory lien pursuant to Article 200 of the Puerto Rico Mortgage Act, 30 L.P.R.A. § 2651 and Article 3.30 of the Municipal Property Tax Act of 1991, Act Number 83 of August 30, 1991, 21 L.P.R.A. § 5080.

sufficient under the Bankruptcy Code and under applicable nonbankruptcy law. According to Article 3.18 of Act Number 83, *supra*, 21 L.P.R.A. section 5068, CRIM has to levy real property taxes in the name of the person who is the owner of said property. See Villamil Development v. CRIM 171 D.P.R. 892 (2007). The model was established by Article 298 of Puerto Rico's Political Code of 1902² and has been confirmed by numerous Supreme Court decisions³. In the case at hand, Debtor *sua sponte* agrees to lift the stay in favor of CRIM, as if with that act she transfers title to another entity. Even if Debtor consents to the lifting of the automatic stay in favor of this creditor or any other creditor or both, this consent *per se* does not transfer the responsibility of payment of real property taxes of a real estate which is under her name as of this date. Therefore, Debtor has not established the foundations for her objection to our proof of claim, timely and correctly filed, according to B.R. 3001 and 5005. Based on this, Debtor's objection should be denied.

WHEREFORE, it is requested from this Honorable Court to accept this answer, ALLOW creditor CRIM's claim number 8 as filed and issue any further order as it may deem just and proper.

² Previously at 13 L.P.R.A. section 450.

³ The most famous case on this matter is De la Haba et al v. Trib. Contrib. et al 76 D.P.R. 923 (1954); see also Buscaglia, Tes. V. Tribl. Contrib. 68 D.P.R. 37 (1948); Tes. v. Tribl. Contribuciones y Sucrs. Abarca 69 D.P.R. 878 (1949); Salom Pizá v. Sec. Hacienda 92 D.P.R. 232 (1965) and V.O. Industrial Corp. v. Komodidad Dist. Inc. 131 D.P.R. 261 (1992).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day I electronically filed the foregoing *Answer* with the Clerk of the Court using the CM/ECF System which will send notification of such filing to:

- MONSITA LECAROSZ ARRIBAS ustpregion21.hr.ecf@usdoj.gov
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I FURTHER CERTIFY that I have served copy of this document by mail through the United States Postal Service to the following non CM/ECF participant: Debtor **María de Lourdes Cosme Hernández**, P.O. Box 50955, Toa Baja, Puerto Rico 00750.

In San Juan, Puerto Rico, this 16th day of March, 2011.

s/ *Carmen Priscilla Figueroa*

Carmen Priscilla Figueroa

U.S.D.C.P.R. #128209

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